IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 904 of 2000

in

SPECIAL CIVIL APPLICATION No 1111 of 2000
with
Civil Application No.6022 of 2000

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

HARIBHHAI KALABHAI

Appearance:
MR HARDIK C RAWAL for Appellant
MR GK RATHOD for Respondent No. 1

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE P.B.MAJMUDAR

Date of decision: 12/03/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE P.B.MAJMUDAR)

1. Admitted.

With the consent of parties, the matter is taken up for hearing today.

2. The present Letters Patent Appeal is directed against the order of the learned single Judge passed in Special Civil Application No. 1111 of 2000. By the said order, the learned single Judge has confirmed the order of the Labour Court, by which the Labour Court, while allowing the Reference, directed the reinstatement of the workman with 50% back wages.

3. At the relevant time, the respondent-workman was serving with the State Transport Corporation as a Conductor. He was removed from Service by an order dated 24.2.1995 on the ground that he had not issued tickets to certain passengers and that he was in possession of punched tickets. Ultimately, after conclusion of enquiry, he was subjected to dismissal order.

4. The respondent-workman thereafter raised an Industrial Dispute, which was numbered as Reference (A.C.J.) No.285 of 1995. The Presiding Officer of the Labour Court, Junagadh, by his order dated 5.8.1999, partly allowed the Reference. The Labour Court set aside the order of removal and the order of reinstatement of the workman was made with 50% back wages. The aforesaid order was passed while exercising the powers under Section 11A of the Industrial Disputes Act. The learned single Judge also confirmed the said order by dismissing the Special Civil Application of the S.T. Corporation.

5. Mr.Raval for the appellant, however, argued that, looking to the facts and circumstances of the case, appropriate punishment should have been imposed on the workman and mere withholding of 50% back wages may not be proper.

6. Mr.Rathod, on the other hand, has submitted that he has no objection if this Court imposes some more penalty on the concerned workman.

7. Considering the arguments of both the sides and considering the consensus prevailing between the parties,

we are of the opinion that the interest of justice will be served if the respondent-workman is awarded further penalty of withholding of three increments with future effect.

8. Accordingly, considering the facts and circumstances of the case, we modify the order of the Labour Court to the aforesaid extent. The order of reinstatement with continuity of service is confirmed. The order of payment of 50% back wages is also confirmed. However, over and above the same, the respondent-workman will be subjected to withholding of three increments with future effect. Rest of the Award of the Labour Court is accordingly confirmed.

9. This appeal is accordingly allowed to the aforesaid extent and the order of the Labour Court is accordingly modified to the extent indicated above, i.e. reinstatement with continuity in service and payment of 50% back wages, and withholding of three increments with future effect. The appellant is directed to give the benefit of 50% back wages to the concerned workman within a period of six weeks from today and order of reinstatement, if not carried out so far, also should be carried out by the aforesaid period.

Appeal is accordingly allowed partly to the aforesaid extent.

In view of the above order, no order need be passed in Civil Application No.6022 of 2000.

12th March, 2001 (D.M. Dharmadhikari, C.J.)

(P.B. Majmudar, J.)

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(apj)